IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 22755 of 2007(H)

PETITIONER:

K.G.RADHAKRISHNAN, S.R. & CO.,
R.S.ROAD, KANJIKODE, PALAKKAD.

BY ADV. SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENTS:

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1. INTELLIGENCE OFFICER (IB),
COMMERCIAL TAXES, PALAKKAD.

2. DEPUTY COMMISSIONER, COMMERCIAL TAXES,
PALAKKAD.

3. COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.22755 of 2007

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Dated this the 25th day of July, 2007.

JUDGMENT

Heard counsel for the petitioner and Government Pleader. The petitioner is challenging Ext.P5 order whereunder the Commissioner of Commercial Taxes has confirmed the first revisional order confirming penalty levied under Section 45A of the KGST Act. Even after purchase of cement from outside State for three years partly against issue of C Form, petitioner did not account his sales in Kerala, but filed only nil returns. Therefore, unaccounted transactions stand proved by concurrent finding of the authorities. Penalty under Section 45A is therefore inescapable and in principle, I uphold the levy. However, having regard to the fact that the penalty led to assessment and demand of tax, though under contest and since petitioner is not a big dealer, W.P. is disposed of reducing the penalty to equal amount of tax sought to be evaded. The petitioner is also granted 50% waiver of interest on the penalty amount provided the sustained penalty with 50% interest is paid before 15.9.2007. If payment is not made as above, reduction and waiver granted will stand automatically cancelled.

C.N.RAMACHANDRAN NAIR
Judge

pms